

Application Number 10/762,387
Amendment dated January 25, 2006
Responsive to Office Action mailed on July 25, 2005

REMARKS

This amendment is responsive to the Office Action dated July 25, 2005. Applicant has amended claims 1, 14, 15, 22, 29, 33, 40, 54, 55, 62 and 72. Claims 1-79 are pending.

Claim Objections

The Examiner objected to Claim 3 because of an informality. Applicant has corrected this informality by amendment of Claim 3.

Claim Rejections – 35 U.S.C. § 102

The Examiner has rejected claims 1-8, 11-20, 22, 23, 25-48, 54-60, 62, 63, 64, 66, 67, 69-74 and 75-78 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,827,690 (hereinafter "Bardy").

In order for a claim to be anticipated by a reference under 35 U.S.C. 102(e), each and every limitation in the claim must be present in the cited reference. Independent claim 1 has been amended to recite that the data processing and recording module is configured "to generate a prompt to a user to perform a cardiac marker test." Independent claim 22 has been amended to recite the step of "providing a prompt for the performance of a cardiac market test." Independent claim 40 has been amended to recite that the means for processing electrocardial and cardiac marker data "comprises means for generating a prompt to a user to perform a cardiac marker test". Independent claim 62 has been amended to recite that the data processor is "configured to generate a prompt to a user of the apparatus to perform a cardiac marker test." Dependent claims 15 and 55 have been amended to change the claims from which they depend, in view of the amendments to claims 1 and 40.

An apparatus that prompts a user to perform a cardiac marker test on a patient, or a method which includes a step of prompting a user to perform a cardiac marker test is nowhere disclosed in Bardy. The Examiner has cited col. 3, lines 20-60 of Bardy in support of the position that Bardy is considered to disclose data processing and recording module configured to generate a prompt to a user to perform a cardiac market test. Applicant has carefully reviewed the cited section of Bardy and respectfully submits that no generation of a prompt to a user to perform a cardiac marker test is disclosed therein.

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Bardy does not teach or imply a method or system that includes a provision for providing a prompt to a user. Bardy's teachings deal with automated and remote monitoring and data collection, and do not contemplate "hands-on" provision of medical services to a patient by an individual present with the patient, and so Bardy does not suggest that a prompt be provided to a user who is present to directly provide services to a patient.

With respect to claim 33, the Examiner has not cited any portion of Bardy as disclosing a method in which the prompt for performance of a cardiac marker test is given if electrocardial data suggest myocardial ischemia. Applicant respectfully submits that this is not taught in Bardy.

Applicant has amended claims 14, 29 and 54 to recite that the prompt is in response to a result of an ECG analysis or analysis of electrocardial data. Claim 72 has been amended to recite that the prompt is generated based on the electrocardial waveform. Bardy does not disclose or suggest that general of a prompt to perform a cardiac marker test be related to any analysis of ECG or electrocardial data or waveform.

For at least these reasons, independent claim 1 and claims 2-8 and 11-20 which depend therefrom, independent claim 22 and claims 23, 25-39 which depend therefrom, independent claim 40 and claims 41-48 and 54-60 which depend therefrom, and independent claim 62 and claims 63, 64, 66, 67, 69-74 and 75-78 which depend therefrom, are not anticipated by Bardy.

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected claims 9, 24, 49 and 68, and claims 21, 61, and 79, under 35 U.S.C. § 103(a) as being unpatentable over Bardy. As discussed above, the independent claims from which these claims depend include language directed to prompts. Bardy does not teach or imply a method or system that includes a provision for providing a prompt to a user. Furthermore, since Bardy's teachings deal with automated and remote monitoring and data collection, and do not contemplate "hands-on" provision of medical services to a patient by an individual present with the patient, Bardy does not suggest that a prompt be provided to a user who is present to directly provide services to a patient. Thus, the cited reference fails to disclose or suggest the inventions defined by Applicants' claims, and provide no teaching that would have

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suggested the desirability of modification to arrive at the claimed invention. For at least these reasons, the subject matters of claims 9, 24, 49 and 68 are not obvious in view of Bardy.

The Examiner has rejected claim 10 under 35 U.S.C. § 103(a) as unpatentable over Bardy in view of U.S. patent 6,501,983 (hereinafter "Natarajan"). As discussed above, independent claim 1 from which claim 10 depends include language directed to prompts for performance of a cardiac marker test. Bardy does not teach or imply a method or system that includes a provision for providing a prompt to a user to perform a cardiac marker test. Neither does Natarajan. Thus, Natarajan does not supply the deficiency in Bardy, and there is no suggestion in either Bardy or Natarajan to modify the teachings of these references to arrive at the invention defined by claim 10. For at least these reasons, the subject matter of claim 10 is not obvious in view of Bardy combined with Natarajan.

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Applicant believes that no additional fees are needed for processing of this Amendment. However, if any fees are due, please charge any such fees or credit any overpayment to deposit account number 13-2546. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Respectfully submitted,

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